



MAIL STOP APPEAL BRIEF-PATENTS
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IN THE U.S. PATENT AND TRADEMARK OFFICE BEFORE
THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Appeal No.
Ikuo SAKAGUCHI	Conf. 1577
Application No. 09/838,185	Group 3628
Filed April 20, 2001	Examiner S. Chencinski

CARD UTILIZATION APPROVAL METHOD,
CARD SETTLEMENT SYSTEM AND CARD
AUTHENTICATION AND SETTLEMENT PROCESSING
DEVICE

APPEAL BRIEF

MAY IT PLEASE YOUR HONORS:

September 12, 2006

1. Real Party in Interest

The real party in interest in this appeal is the
current assignee, NEC Corporation of Tokyo, Japan.

2. Related Appeals and Interferences

None.

3. Status of Claims

Claim 8 was rejected and is the subject of the present
appeal. Claims 1-7 have been canceled.

4. Status of Amendments

No amendments were filed following the Final rejection
of January 13, 2006.

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5. Summary of Claimed Subject Matter

Claim 8 is directed to a (e.g., credit) card utilization approval method in which a card holder is asked on designated mobile device (e.g., mobile phone) to authorize a purchase transaction before determining whether an account of the card holder can settle the purchase transaction (Figure 2; page 7, lines 17-26).

The steps set forth in claim 8 are executed in the designated order (Figure 2; first line of claim 8). The first step is reading card information at a payment processing terminal (Figure 1, element 12) and transmitting the card information and purchase transaction data to a card authentication and settlement processing device (Figure 1, element 13) where an identity of a responsible card holder and a mobile device address of the responsible card holder are determined based on the card information (page 6, line 26, through page 7, line 9). Then, before determining whether an account of the responsible card holder can settle the purchase transaction, the purchase transaction data is transmitted from the card authentication and settlement processing device (13) to the address of the mobile device (Figure 1, element 21) of the responsible card holder where a determination is made whether to authorize the purchase transaction, and the card authentication and settlement processing device (13) is informed of the determination (Figure 2; page 7, lines 22-26). Thereafter, if the purchase transaction

is authorized by the mobile device (21) of the responsible card holder, the card authentication and settlement processing device (13) determines whether the account of the responsible card holder can settle the purchase transaction (page 7, line 17, through page 8, line 2). Both the mobile device (21) of the responsible card holder and the payment processing terminal (12) are then informed whether the account of the responsible card holder can settle the purchase transaction (page 8, lines 3-4).

6. Grounds of Rejection to be Reviewed on Appeal

Claim 8 was rejected under 35 U.S.C. 102(b) as anticipated by JOAO et al. 5,878,337.

7. Argument

Claim 8 includes the steps, in order, of reading card information at a payment processing terminal and transmitting the card information and purchase transaction data to a card authentication and settlement processing device where an identity of a responsible card holder and a mobile device address of the responsible card holder are determined based on the card information; then, before determining whether an account of the responsible card holder can settle the purchase transaction, transmitting the purchase transaction data from the card authentication and settlement processing device to the mobile device address of the responsible card holder where a determination is made whether to authorize the purchase

transaction and the card authentication and settlement processing device is informed of the determination; and at the card authentication and settlement processing device, if the purchase transaction is authorized by the mobile device of the responsible card holder, determining whether the account of the responsible card holder can settle the purchase transaction, and informing both the mobile device of the responsible card holder and the payment processing terminal whether the account of the responsible card holder can settle the purchase transaction.

By contrast, JOAO et al. disclose a system in which after (not before) the determination is made whether the account of the responsible card holder can settle the purchase transaction, the purchase transaction data is sent to the responsible card holder (see Figure 3, steps 34 and 37; Figure 6, steps 134 and 138; and Figure 9, steps 234 and 239). Since the reference does not disclose all the limitations of claim 8, the rejection under §102 cannot be maintained.

Please note the discussion in JOAO et al. at column 5, line 20 through column 6, line 61. The discussion begins by explaining that the first step in JOAO et al. is to process the request at the central processing computer to determine whether the card has been lost, stolen, canceled or deactivated and to determine whether the account has sufficient funds to pay the charge being incurred. It is only after this determination that the method in JOAO et al. communicates with the cardholder

(column 6, lines 4-11). This is opposite the invention defined in claim 8 that includes the step of "before determining whether an account of the responsible card holder can settle the purchase transaction, transmitting the purchase transaction data from the card authentication and settlement processing device to the mobile device address of the responsible card holder," at which time a determination is made whether to authorize the purchase transaction.

Please note also that the last paragraph of claim 8 reiterates this difference by providing that "if the purchase transaction is authorized by the mobile device of the responsible card holder, determining whether the account of the responsible card holder can settle the purchase transaction." This is also opposite JOAO et al. wherein the determination is made whether the account of the responsible card holder can settle the purchase transaction before receiving authorization from the responsible card holder.

In the January 13, 2006 Official Action, the Examiner explains the rejection by repeating the claim language and pointing to many of the same sections of the reference cited above. However, the Examiner does not explain how the reference is being interpreted so as to make the cited parts of the reference relevant to claim 8 in which the steps are in a different order than disclosed in the reference. The Advisory Action of July 17, 2006 is not enlightening.

In addition, there is also nothing in JOAO et al. that suggests the process described therein may be modified to change the order of the steps described therein. All three embodiments use the same steps in the same order. The reference includes other alternative embodiments, but none of the alternative embodiments is relevant to the patentability of claim 8.

In view of this, it is believed that the rejection of record cannot be sustained and that the same must be reversed and such is respectfully requested.

The claim involved in the appeal is set forth in the Claims Appendix.

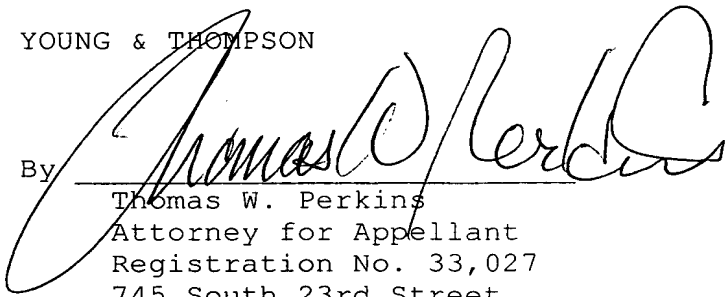
There are no copies of evidence in the Evidence Appendix.

There are no copies of decisions in the Related Proceedings Appendix.

Respectfully submitted,

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8. Claims Appendix

The claims on appeal:

1-7. (canceled)

8. A card utilization approval method, comprising in order the steps of:

during a purchase transaction at a point of sale using a card, reading card information at a payment processing terminal and transmitting the card information and purchase transaction data to a card authentication and settlement processing device;

at the card authentication and settlement processing device, determining an identity of a responsible card holder and a mobile device address of the responsible card holder based on the card information;

before determining whether an account of the responsible card holder can settle the purchase transaction, transmitting the purchase transaction data from the card authentication and settlement processing device to the mobile device address of the responsible card holder;

at the mobile device of the responsible card holder, receiving the purchase transaction data, determining whether to authorize the purchase transaction, and informing the card authentication and settlement processing device of the determination whether to authorize the purchase transaction; and

at the card authentication and settlement processing device, if the purchase transaction is authorized by the mobile

device of the responsible card holder, determining whether the account of the responsible card holder can settle the purchase transaction, and informing both the mobile device of the responsible card holder and the payment processing terminal whether the account of the responsible card holder can settle the purchase transaction.

9. Evidence Appendix

None.

10. Related Proceedings Appendix

None.